

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LARRY MITCHELL HOPKINS,

Defendant.

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Criminal No. 19-1211 JB

MOTION TO DETERMINE MENTAL COMPETENCY OF DEFENDANT

COMES NOW the Defendant, **LARRY MITCHELL HOPKINS**, by and through counsel and, pursuant to U.S. Const. Amend. V and 18 U.S.C. § 4241, moves this court to order a local psychiatric or psychological examination of the defendant, and to hold a hearing to determine whether Mr. **LARRY MITCHELL HOPKINS** is competent to proceed in this matter. As grounds, defendant states:

Reasonable cause exists to believe that Mr. **LARRY MITCHELL HOPKINS** presently suffers from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

Mr. **LARRY MITCHELL HOPKINS** recently suffered a jail beating in Dona Ana Correctional on April 22nd, 2019, including blows to head and face, resulting in a bloody nose.

Mr. **LARRY MITCHELL HOPKINS** again suffered a standing fall, on Monday April 29th, 2019 directly to the back of his head. This occurred while fully chained after his Albuquerque bond hearing which undoubtedly resulted in brain bruising, if not more serious injuries, such as a Traumatic Brain Injury (TBI).

Mr. **LARRY MITCHELL HOPKINS** reported to his Counsel on a recent visit on June 3rd, 2019, that his fall knocked him cold for several minutes on the visitation room floor. Since then he describes suffering recurrent headaches, nausea and frequent dizzy spells, where he cannot safely stand without support for fear of another fall. Hopkins claims to have lost 70 pounds for lack of appetite and dizziness. He reports sustained memory loss, which includes details of the days and events leading to his charges.

Mr. **LARRY MITCHELL HOPKINS** has yet to have a thorough physical, mental and psychiatric exam after his injuries to help shed light upon his competency to stand trial.

Mr. Hopkins appears to have difficulty recalling events regarding his case, and is often confused and may not be able to rationally assist his undersigned Counsel in his defense. On the alternative, if Hopkins were to have a period of rest before his trial, this might help him recoup.

In order to find a defendant incompetent, this court must find by a preponderance of the evidence that the defendant presently is suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against her or to assist properly in her defense. 18 U.S.C. § 4241(d); *Dusky v. U.S.*, 362 U.S. 402 (1960).

Pursuant to 18 U.S.C. § 4241(b) a local psychiatric or psychological examination and report of Mr. **LARRY MITCHELL HOPKINS** is requested.

After the report is filed, counsel requests a hearing on the issue of competency pursuant to 18 U.S.C. § 4241(c).

Counsel for the government, AUSA George Kraehe does not oppose this motion, or a continuance.

Although the government does not oppose this motion, the undersigned respectfully

request a hearing in this matter, prior to entering an order, to fully develop the record in this case.

WHEREFORE, the Defendant respectfully requests this court to order a local psychiatric or psychological examination and report on Mr. **LARRY MITCHELL HOPKINS**, to hold a hearing to determine his mental competency, and for such other and further relief as the Court deems proper.

Respectfully submitted,

KELLY O'CONNELL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of June, 2019, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

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